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Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

# HOUSE BILL 2187

AN ACT

AMENDING SECTIONS 35-103, 41-1335, 41-1338 AND 41-1345, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-103, Arizona Revised Statutes, is amended to  
3 read:

4 35-103. Annual financial reports; notification; payments

5 A. All state or county officers, boards, commissions or agencies that  
6 are required by law to prepare, make or publish annual reports of financial  
7 condition or operations, except the industrial commission, shall,  
8 notwithstanding any law to the contrary, prepare, make or publish those  
9 reports within ninety days after the close of each fiscal year. The reports  
10 shall disclose with respect to the fiscal year, rather than the calendar  
11 year, all matters and things required by law.

12 B. State officers, boards, commissions or agencies shall deliver  
13 copies of their annual reports as follows:

14 1. One copy to the secretary of state.

15 2. Sufficient copies to the Arizona state library, archives and public  
16 records or its agent TO SATISFY THE REQUIREMENTS OF THE STATE DOCUMENTS  
17 PROGRAM OR ARRANGEMENTS OR AGREEMENTS ENTERED INTO PURSUANT TO SECTION  
18 41-1335, SUBSECTION A, PARAGRAPH 5.

19 C. The administrative head of a state board, commission or agency who  
20 fails to comply with this section shall have all compensation the  
21 administrative head receives from public monies withheld until such time as  
22 the administrative head complies with this section.

23 D. THE GOVERNMENTAL UNITS DESCRIBED IN SUBSECTION A OF THIS SECTION  
24 SHALL:

25 1. NOTIFY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS IF  
26 THE REPORTS SUBJECT TO THIS SECTION ARE POSTED ON AN INTERNET WEB SITE.

27 2. PAY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS THE FEE  
28 CHARGED PURSUANT TO SECTION 41-1345 IF THE GOVERNMENTAL UNIT REFUSES THE  
29 STATE LIBRARY'S REQUEST TO DELIVER, AND THE STATE LIBRARY INCURS ANY EXPENSES  
30 IN OBTAINING, THE COPIES THAT ARE REQUIRED TO BE DELIVERED PURSUANT TO THIS  
31 SECTION.

32 Sec. 2. Section 41-1335, Arizona Revised Statutes, is amended to read:

33 41-1335. Powers and duties of director

34 A. The director shall:

35 1. Adopt rules for the use of books or other materials in the custody  
36 of the state library and for the removal of books from the library, including  
37 assessment of reasonable penalties for failure to return books or other  
38 materials when due. The proceeds from the assessment of reasonable penalties  
39 shall be deposited, pursuant to sections 35-146 and 35-147, in the state  
40 library fund established by section 41-1336. The monies shall be used only  
41 for the purchase of other books or materials.

42 2. Sell or exchange undesired duplicate copies of books or other  
43 materials, or books or other materials not of value for the purposes of the  
44 library, or photographic reproductions of state library holdings, and  
45 deposit, pursuant to sections 35-146 and 35-147, the proceeds in the state

1 library fund established by section 41-1336. The monies shall be used for  
2 the purchase of other books or materials.

3 3. Bring actions for the recovery of books, or for three times the  
4 value of the books, against any person who has them in the person's  
5 possession or who is responsible for the books, and who has failed or refused  
6 to return them on demand. If a book is one of a set the value of the book  
7 may be deemed the value of the entire set. Monies recovered pursuant to this  
8 paragraph shall be transmitted to the state treasurer for credit to the state  
9 library fund established by section 41-1336.

10 4. Certify copies from books, documents or other archival or public  
11 records which have been deposited in the custody of the state library. The fee  
12 for certification shall be the same as prescribed for the certification of  
13 records by the secretary of state. These fees shall be transmitted to the  
14 state treasurer for credit to the state library fund established by section  
15 41-1336. These certificates have the same force and effect as if made by the  
16 officer originally in charge of the record.

17 5. As the director deems necessary:

18 (a) Arrange with the federal government, other states and foreign  
19 countries for a system of exchange of official state reports and  
20 publications, session laws, statutes, legislative journals and supreme court  
21 reports.

22 (b) Enter into agreements to establish a depository system and an  
23 exchange program with any municipal, county or regional public library, state  
24 college or state university library and out-of-state research libraries.

25 (c) Enter into agreements with libraries in this state for the state  
26 documents program described in section 41-1338, **SUBSECTION A**, paragraph  
27 2. Any library that enters into an agreement pursuant to this subdivision  
28 shall continue to contribute at least the same level of support to the state  
29 documents program and shall not use any monies received pursuant to the  
30 agreement to supplant other monies available to the library.

31 6. Adopt rules for the acquisition, maintenance, access and  
32 preservation of state publications.

33 7. After consultation with other appropriate agencies, adopt rules for  
34 the description of state publications in all formats.

35 8. Provide access to an official compilation or revision of the laws  
36 of this state to each public or court library in this state that applies for  
37 access. The director may provide the access electronically. On request, the  
38 director may provide a certified copy of a law pursuant to paragraph 4 of  
39 this subsection.

40 9. Annually submit a report to the legislature on the condition of the  
41 state library, its activities and the disposition of monies spent for its  
42 maintenance and transmit a copy of the report to the governor.

43 10. Appoint personnel, including security personnel, necessary to  
44 perform the duties of the state library and assign their duties.

45 11. Cooperate with the legislative council in carrying out section  
46 41-1304, subsection B.

1 B. The governor, the secretary of state, the president of the senate,  
2 the speaker of the house of representatives, the heads of departments and all  
3 officers and agents of this state shall supply at no cost the number of  
4 copies of official reports, public documents and publications required for  
5 the state library or its agents to satisfy the requirements of the state  
6 documents program or arrangements or agreements entered into pursuant to  
7 subsection A, paragraph 5 of this section.

8 C. THE GOVERNMENTAL UNITS DESCRIBED IN SUBSECTION B OF THIS SECTION  
9 SHALL:

10 1. NOTIFY THE STATE LIBRARY IF THE REPORTS, DOCUMENTS AND PUBLICATIONS  
11 SUBJECT TO THIS SECTION ARE POSTED ON AN INTERNET WEB SITE.

12 2. PAY THE STATE LIBRARY THE FEE CHARGED PURSUANT TO SECTION 41-1345  
13 IF THE GOVERNMENTAL UNIT REFUSES THE STATE LIBRARY'S REQUEST TO SUPPLY, AND  
14 THE STATE LIBRARY INCURS ANY EXPENSES IN OBTAINING, THE COPIES THAT ARE  
15 REQUIRED TO BE SUPPLIED PURSUANT TO THIS SECTION.

16 Sec. 3. Section 41-1338, Arizona Revised Statutes, is amended to read:

17 41-1338. Archives and history services; recovery of costs

18 A. The state library shall contain:

19 1. All available works, books, newspaper files, pamphlets, papers,  
20 manuscripts, documents, magazines and newspaper articles, maps, pictures,  
21 items and materials pertaining to or bearing on the history of Arizona.

22 2. Copies of current official reports, public documents and  
23 publications of state, county and municipal officers, departments, boards,  
24 commissions, agencies and institutions, and public archives. To permit  
25 compliance with this paragraph it is the duty of all public officers required  
26 by law to make written reports to the governor, or to the governing officer  
27 or body of a county, city or town, to provide those reports, documents and  
28 publications to the state library for filing in the state library archives IN  
29 THE NUMBER THAT WILL SATISFY THE REQUIREMENTS OF THE STATE DOCUMENTS PROGRAM  
30 OR ARRANGEMENTS OR AGREEMENTS ENTERED INTO PURSUANT TO SECTION 41-1335,  
31 SUBSECTION A, PARAGRAPH 5 except those reports, documents and publications  
32 that are confidential.

33 B. THE GOVERNMENTAL UNITS DESCRIBED IN SUBSECTION A OF THIS SECTION  
34 SHALL:

35 1. NOTIFY THE STATE LIBRARY IF THE REPORTS, DOCUMENTS AND PUBLICATIONS  
36 SUBJECT TO THIS SECTION ARE POSTED ON AN INTERNET WEB SITE.

37 2. PAY THE STATE LIBRARY THE FEE CHARGED PURSUANT TO SECTION 41-1345  
38 IF THE GOVERNMENTAL UNIT REFUSES THE STATE LIBRARY'S REQUEST TO PROVIDE, AND  
39 THE STATE LIBRARY INCURS ANY EXPENSES IN OBTAINING, THE COPIES THAT ARE  
40 REQUIRED TO BE PROVIDED PURSUANT TO THIS SECTION.

41 Sec. 4. Section 41-1345, Arizona Revised Statutes, is amended to read:

42 41-1345. Records; records management; powers and duties of  
43 director; fees; records services fund

44 A. The director is responsible for the preservation and management of  
45 records. In addition to other powers and duties, the director shall:

1           1. Establish standards, procedures and techniques for effective  
2 management of records.

3           2. Make continuing surveys of record keeping operations and recommend  
4 improvements in current record management practices including the use of  
5 space, equipment and supplies employed in creating, maintaining, storing and  
6 servicing records.

7           3. Establish standards and procedures for the preparation of schedules  
8 providing for the retention of records of continuing value and for the prompt  
9 and orderly disposal of records no longer possessing sufficient  
10 administrative, legal or fiscal value to warrant their further keeping.

11          4. Establish criteria for designation of essential records within the  
12 following general categories:

13           (a) Records containing information necessary to the operations of  
14 government in the emergency created by a disaster.

15           (b) Records containing information necessary to protect the rights and  
16 interests of persons or to establish and affirm the powers and duties of  
17 governments in the resumption of operations after a disaster.

18          5. Reproduce or cause to be reproduced essential records and prescribe  
19 the place and manner of their safekeeping.

20          6. Obtain such reports and documentation from agencies as are required  
21 for the administration of this program.

22          7. Request transmittal of the originals of records produced or  
23 reproduced by agencies of the state or its political subdivisions pursuant to  
24 section 41-1348 or certified negatives, films or electronic media of such  
25 originals, or both, if in the director's judgment such records may be of  
26 historical or other value.

27          8. On request, assist and advise in the establishment of records  
28 management programs in the legislative and judicial branches of the state and  
29 provide program services similar to those available to the executive branch  
30 of state government pursuant to this article.

31          9. Establish a fee schedule to systematically charge state agencies,  
32 political subdivisions of this state and other governmental units **OF THIS**  
33 **STATE** for services described in this section and section 41-1345.01 and  
34 deposit monies received from fees in the records services fund established by  
35 subsection B of this section.

36          **10. SUBJECT TO APPROVAL OF THE BOARD, ESTABLISH A FEE SCHEDULE TO**  
37 **CHARGE STATE AGENCIES, POLITICAL SUBDIVISIONS OF THIS STATE AND OTHER**  
38 **GOVERNMENTAL UNITS OF THIS STATE FOR SERVICES AND EXPENSES INCURRED BY THE**  
39 **STATE LIBRARY IN OBTAINING COPIES OF THOSE REPORTS, DOCUMENTS AND**  
40 **PUBLICATIONS THAT ARE REQUIRED TO BE DELIVERED, SUPPLIED OR PROVIDED PURSUANT**  
41 **TO SECTIONS 35-103, 41-1335 AND 41-1338 AND DEPOSIT THESE MONIES IN THE**  
42 **RECORDS SERVICES FUND ESTABLISHED BY SUBSECTION B OF THIS SECTION.**

43          B. A records services fund is established consisting of monies  
44 deposited pursuant to subsection A, ~~paragraph~~ **PARAGRAPHS 9 AND 10** of this  
45 section. The director shall administer the fund for the purposes provided in  
46 subsection A of this section. Monies in the fund are subject to legislative

1 appropriation and are exempt from the provisions of section 35-190 relating  
2 to lapsing of appropriations.